IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellant:	Wai-Tian Tan	Patent Application	
Application Number:	10/695,259	Group Art Unit:	2421
Filed:	October 27, 2003	Examiner:	Nguyen Ba, H.

For: METHODS AND SYSTEMS FOR DYNAMICALLY CONFIGURING A NETWORK COMPONENT

APPEAL BRIEF

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I. Real Party in Interest

The assignee of the present invention is Hewlett-Packard Development Company, L.P.

II. Related Appeals and Interferences

There are no related appeals or interferences known to the Appellant.

III. Status of Claims

Claims 1-33 are rejected. This Appeal involves Claims 1-33.

IV. Status of Amendments

All proposed amendments have been entered. An amendment subsequent to the Final Action has not been filed.

V. Summary of Claimed Subject Matter

Independent Claims 1, 12 and 23 of the present application pertain to embodiments associated with methods and systems dynamically configuring a network component to reroute media streams.

As recited in Claim 1, a "method for dynamically configuring a network component to reroute media streams" is disclosed. As described in the Appellant's specification on at least page 9, lines 1-17, one embodiment includes receiving a request for content from a first network connected component 501. As described in the Appellant's specification on at least page 11, lines 13-26 and page 13, lines 1-27, one embodiment includes determining a type of media service needed for at least a portion of said content to fulfill said request. As described in the Appellant's specification on at least page 9, lines 19-27, page 144, lines 1-4 and page 16, lines 18-24, one embodiment includes configuring a data relaying component 511 to forward said at least a portion of said content from a second network 505 connected component to a third network connected component 507, said portion of said content to receive said type of media service performed by said third network connected component 507.

As recited in Claim 12, a "computer useable medium having computer useable code embodied therein causing a computer to perform operations" for dynamically configuring a network component to reroute media streams is disclosed. As described in the Appellant's specification on at least page 9, lines 1-17, one embodiment includes receiving a request for content from a first network connected component 501. As described in the Appellant's specification on at least page 11, lines 13-26 and page 13, lines 1-27, one embodiment includes determining a type of media service needed for at least a portion of said content to

fulfill said request. As described in the Appellant's specification on at least page 9, lines 19-27, page 14, lines 1-4 and 21 to 27, page 15, lines 1-4 and page 16, lines 18-24, one embodiment includes configuring a data relaying component 511 to forward said at least a portion of said content from a second network 505 connected component to a third network connected component 507, said portion of said content to receive said type of media service performed by said third network connected component 507.

As recited in Claim 23, a "server" is disclosed. As described in the Appellant's specification on at least page 9, lines 19-27, page 14, lines 1-4 and 21 to 27, page 15, lines 1-4 and page 16, lines 18-24, one embodiment includes a memory for storing a request for content from a first network connected component 501. As described in the Appellant's specification on at least page 11, lines 13-26, page 13, lines 1-27, page 14, lines 21 to 27 and page 15, lines 1-4, one embodiment includes a processor coupled to said memory for determining a type of service needed for at least a portion of said content to fulfill said request and configuring a network data relaying component 511 to forward said at least a portion of said content from a second network 505 connected component to a third network connected component 507, said portion of said content to receive said type of media service performed by said third network connected component 507.

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VI. Grounds of Rejection to Be Reviewed on Appeal

1. Claims 1-6, 8, 11-17, 19, 22-28, 30 and 33 are rejected under 35 U.S.C. §102(b) as being anticipated by Signes et al. (U.S. Patent Publication No. 2002/0156842) (hereinafter, "Signes").

2. Claims 7, 9, 10, 18, 20, 21, 29, 31 and 32 are rejected under 35 U.S.C. §103(a) as being unpatentable over Signes in view of McCanne (U.S. Patent Application No. 6,785,704) (hereinafter, "McCanne"). .

VII. Argument

1. Whether Claims 1-6, 8, 11-17, 19, 22-28, 30 and 33 are unpatentable under 35 U.S.C. §102(b) as being anticipated by Signes.

The Office Action mailed November 30, 2009 (hereinafter, "instant Office Action") states that Claims 1-6, 8, 11-17, 19, 22-28, 30 and 33 are rejected under 35 U.S.C. §102(b) as being anticipated by Signes. (Instant Office Action, page 5, section 7.) The Appellant has carefully considered the rejections and comments set forth in the instant Office Action. Appellant respectfully submits that Claims 1-6, 8, 11-17, 19, 22-28, 30 and 33 are not anticipated by Signes in view of at least the instant response.

Appellant respectfully points out that Claim 1 recites (Claims 12 and 23 include similar features):

> A method for dynamically configuring a network component to reroute media streams, comprising:
> receiving a request for content from a first network connected component;
> determining a type of media service needed for at least a portion of said content to fulfill said request; and
> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component.

(Emphasis added.)

According to the Federal Circuit, "anticipation requires the disclosure in a single prior art reference of each claim under consideration". W.L. Gore & Assocs. v. Garlock Inc., 721 F.2d 1540, 220 USPQ 303, 313 (Fed. Cir. 1983)

MPEP §2131 provides:

> "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference". MPEP §2131; *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 103 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). "The elements must be arranged as required by the claim..." *In re Bond*, 910 F.2d 831, 15 USPQ2d 1913, 1920 (Fed. Cir. 1989).

The instant Office Action states that Signes discloses the features of Appellant's Claim 1. Appellant respectfully submits that Signes does not anticipate the features of Claim 1.

Appellant understands Signes to disclose a "system for audio-visual media customization according to receiver attributes" (Signes, Title) in which a "rule engine looks to the content database 134 to determine a particular media content that is responsive to the request" (Signes, paragraph [0040]). This "media content" is linked to the attributes of the intended receiver (Signes, paragraph [0039].) such as "local advertising based upon geographical location of the end user" (Signes, paragraph [0041]) and "advertising tailored to a end users' interests, age, gender, language or profession" (Signes,. paragraph [0042]). The "media content" is "customized information" (emphasis added; Signes, paragraph [0024]), not a media service. Signes' server 120 contains the personalized content that may be obtained.

Significantly, Signes remains silent as to "determining a type of media service needed for at least a portion of said content to fulfill said request" (Appellant's Claim 1) in order to overcome a situation in which a content server "can only provide [content] in an [*sic*] a format (e.g. audio) that the client device 501 is not equipped to accommodate" (Appellant's specification, page 12, lines 4-10). Thus, as Signes remains silent as to "determining a type of media service needed" (emphasis added), Appellant respectfully asserts that Signes also remains silent as to:

> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component

In furtherance of this assertion, Appellant respectfully disagrees with the instant Office Action's analysis of the "equivalent" features of Signes and Appellant's Claim 1 (instant Office Action, page 3-4). Appellant respectfully directs the discussion to page 9, lines 19-27 (emphasis added) of Appellant's specification, which provides:

> According to one embodiment, the RTSP server 503 is supplied with information that enables it to cause a redirection of packets that are initially slated to be transmitted directly from a first point on the network to a second point on the network (e.g., a content server to a client device) to a third point on the network (e.g., media service provider). It should be appreciated that upon receiving a session initiation request from a client device (e.g., 501), the RTSP server 503 can configure a network switch to redirect designated packets to appropriate service locations.
>
> Furthermore,
>
> [m]edia service 507 is a network connected component that can perform designated services on streaming media content. The services that can be provided can include but are not limited to format conversion services such as display size, bit rate, compression standard for video, sampling rate, quality, and compression standard for audio.

(Emphasis added; Appellant's specification, page 10, lines 1-5). As such, "media service" is defined as a component, in one embodiment, that provides format conversion services. The content is redirected to a media service 507 "when a request is made from a client device 501 to a content server 505 for content that the content server 505 can only provide in an [*sic*] a format (e.g., audio) that the client device 501 is not equipped to accommodate" (emphasis added; Appellant's specification, page 11, lines 3-9 and Figure 5).

Thus, according to Appellant's specification and Appellant's Claim 1, Appellant's "first network connected component" is the client 501. The "second network component" is content server 505. The "third network component" is the media service 507. The RTSP server 503 redirects the packets that were initially slated to be transmitted directly from the content server 505 (second network component) to client device 501 (first network component), to be transmitted to the media service 507 (third network component). The media service 507 performs a conversion service on the content, which converted content then is sent to client device 501.

In contradiction to Appellant's Claim 1 and as stated in the instant Office Action on pages 3-4, Signes' second network component is the media server 130 and its third network component is the streaming server 120. Furthermore, while not stated in the instant Office Action, based on the assignations given regarding the network components, Signes' first network component is the terminal 150 of end user 155. It is Signes' media server 130 that directs a request to a specific streaming server 120 according to a placeholder 116's (the placeholder 116 is within the content that accompanies the request from the end user 155) indications.

In contrast, it is Appellant's RTSP server 503, which is not defined as a first, second or third component and is thus not equivalent to Signes' media server 130 (second network component) in Appellant's Claim 1, that configures a data relaying component 511 to redirect content to its third network component, media server 507 for conversion services that provide content in a format that client 501 (first network component) is equipped to handle.

Appellant's media service 507 actually performs conversion services of the media and is the last stop before the converted content is sent to the client device 501. Signes' "media service" 130 merely directs a request for content to a server, which server (Signes' server 120) sends the requested content to end user 155 at terminal 150, regardless of the end user's 155 terminal's 150 ability to handle the format.

Furthermore, Appellant's network data relaying component (e.g., switch, router, computer, etc.) 511 "is a network connected component that can be programmed to 'redirect' packets" (emphasis added, Appellant's specification, page 10, lines 7-8) and is separate from Appellant's RTSP server 503 (Appellant's Figure 5). In contrast, Signes' dispatcher 132 directs a request from the terminal 150 (end user 155) to a server 120 and is part of Signes' media server 130.

Appellant's "determining a type of media service" and redirecting content to a media service 507 that performs the media service determined to be needed enables a client to obtain requested content in a format that the client is equipped to accommodate (Appellant's Claim 1 and specification, page 12, lines 7-13). In contrast, Signes focuses on providing

"customized media" (Signes, paragraph [0047]) to the terminal 150 in response to a request in the form of the following:

> [0041] local advertising based upon geographical location of the end user
> [0042] advertising tailored to a end users' interests, age, gender, language or profession
> [0043] branding or access to specific services related to the end-user subscription
> [0044] updates on specific topics of interest to an end user such as sports scores
> [0045] product updates relating to products owned by the end user
> [0046] other information such as be of interest to the end user

(Signes, paragraphs [0041] to [0046].) Significantly, Signes does not provide content to streaming server 120 that is slated to undergo format conversion services at that streaming server 120 in order that a client may receive the content in a format the client is equipped to accommodate, without which conversion services being performed the client would not be able to accommodate the content received.

Therefore, Appellant respectfully submits that Signes does not anticipate:

> A method for dynamically configuring a network component to reroute media streams, comprising:
> receiving a request for content from a first network connected component;
> determining a type of media service needed for at least a portion of said content to fulfill said request; and
> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component.

(emphasis added) as is recited in Appellant's Claim 1.

Additionally, Appellant respectfully notes and asserts that as per the reasoning presented above, Appellant's Claim 8, "wherein said content is redirected to said third

network connected component while en route to said first network connected component" (emphasis added) and Appellant's Claim 11, "wherein said [RTSP] server receives said request routed by said data relaying component, and supplies routing configuration instructions to said data relaying component to create or destroy a rule to route selected streams to a media service" are allowable. Moreover, Appellant's note that the "server" described in Appellant's Claim 11 is the RTSP server 503 of Figure 5, and that Claim 11 should read, "wherein the received request routed by said data relaying component" as opposed to "wherein said server receives said request routed by said data relaying component" as it is the RTSP Server 503 that performs the "receiving", "determining" and "configuring" of Appellant's Claim 1.

Thus, Appellant respectfully submits that Signes does not anticipate the features as are set forth in independent Claim 1, and as such, Claim 1 traverses the rejection under 35 U.S.C. §102(b) and is condition for allowance. Accordingly, Appellant also respectfully submits that Claims 12 and 23 are in condition for allowance for the reasons stated herein with regards to Claim 1. Furthermore, Appellant respectfully asserts that Claims 2-6, 8 and 11 depending on Claim 1, Claims 13-17, 19 and 22 depending on Claim 12 and Claims 24-28, 30 and 33 depending on Claim 23 are allowable as being dependent on an allowable base claim.

Furthermore, Appellant respectfully asserts that Claims 8 and 11 are allowable independent of the determination of Claim 1's allowability.

2. Whether Claims 7, 9, 10, 18, 20, 21, 29, 31 and 32 are unpatentable under 35 U.S.C. §103(a) over Signes in view of McCanne.

The instant Office Action rejects Claims 7, 9-10, 18, 20-21, 29, 31 and 32 under 35 U.S.C. §103(a) as being unpatentable over Signes in view of McCanne (U.S. Patent Application No. 6,785,704). The rejections and comments set forth in the instant Office Action have been carefully considered by the Appellant. Appellant respectfully submits that Claims 7, 9-10, 18, 20-21, 29, 31 and 32 are patentable over Signes in view of McCanne for at least the following rationale.

Appellant respectfully submits that the combination of Signes and McCanne does not satisfy the requirements of a *prima facie* case of obviousness because the combination of Signes and McCanne as a whole do not suggest the features of Claim 1.

"As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries" including "[a]scertaining the differences between the claimed invention and the prior art" (MPEP 2141(II)). "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious" (emphasis in original; MPEP 2141.02(I)).

Appellant respectfully notes that "[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations. However, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art" (emphasis added; MPEP 2141[III]).

Appellant respectfully submits that embodiments of Appellant's Claim 1 as a whole would not have been obvious, and therefore the instant Office Action does not satisfy the requirements for a rejection of Claim 1 under 35 U.S.C. §103(a). In particular, Appellant respectfully submits that the instant Office Action fails to explain the differences between Signes, McCanne, and Appellant's claimed features. Moreover, Appellant respectfully submits that the instant Office Action fails to explain why these differences would have been obvious to one of ordinary skill in the art.

As stated herein, Appellant respectfully submits that Signes remains silent as to "determining a type of media service needed" as well as:

> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component

as is recited in Appellant's Claim 1. Furthermore, Appellant respectfully submits that McCanne fails to overcome the deficiencies of Signes. In particular, Appellant respectfully submits that McCanne also remains silent as to "determining a type of media service needed" as well as:

> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component

as is recited in Appellant's Claim 1. Appellant understands McCanne to disclose a "content distribution system for operation over an internetwork including content peering arrangements" (McCanne, Title) in which "a request for the content is sent from the client to a redirector node

that receives requests, wherein a redirector at the redirector node provides an address for a server available to serve the requested content" (emphasis added; McCanne, Abstract). However, Appellant respectfully asserts that McCanne fails to disclose "determining a type of media service needed" as well as:

> configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component

as is recited in Appellant's Claim 1. Moreover, Appellant respectfully asserts that nothing in McCanne provides a motivation to modify Signes to arrive at the features of Appellant's Claim 1.

Additionally, Appellant respectfully submits that the instant Office Action fails to explain why the differences between Signes, McCanne, and Appellant's features of Claim 1 would have been obvious to one or ordinary skill in the art.

Thus, in view of the combination of Signes and McCanne not satisfying the requirements of a *prima facie* case of obviousness, Appellant respectfully asserts that Claim 1 is patentable over Signes in view of McCanne. Additionally, Appellant respectfully submits that Claims 12 and 23 are patentable for the reasons stated herein with regards to Claim 1. Moreover, Appellant respectfully submits that Claims 7, 9 and 10 depending on Claim 1, Claims 18, 20 and 21 depending on Claim 12 and Claims 29, 31 and 32 depending on Claim 23 are in condition for allowance as being dependent on an allowable base claim.

CONCLUSION

Appellant believes that pending Claims 1-33 are directed toward patentable subject matter. As such, Appellant respectfully requests that the rejections of Claims 1-33 be reversed.

The Appellant wishes to encourage the Examiner or a member of the Board of Patent Appeals to telephone the Appellant's undersigned representative if it is felt that a telephone conference could expedite prosecution

Respectfully submitted,
WAGNER BLECHER LLP

Dated: May 3, 2010

/John P. Wagner, Jr./
John P. Wagner, Jr.

Registration No. 35,398

Wagner Blecher LLP
123 Westridge Drive
Watsonville, CA 95076
(408) 377-0500

VIII. Appendix - Clean Copy of Claims on Appeal

What is claimed is:

1. A method for dynamically configuring a network component to reroute media streams, comprising:

receiving a request for content from a first network connected component;

determining a type of media service needed for at least a portion of said content to fulfill said request; and

configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component.

2. The method of Claim 1 wherein said step of receiving said request for content is performed by a network connected server.

3. The method of Claim 1 wherein said request is for streaming media content.

4. The method of Claim 1 wherein said first network connected component is a client device.

5. The method of Claim 1 wherein said second network connected component is a content server.

6. The method of Claim 1 wherein said third network connected component is a media service component that receives said content, performs a media service and transmits the content to a client device.

7. The method of Claim 1 wherein said configuring is performed by a real time streaming protocol (RTSP) server.

8. The method of Claim 1 wherein said content is redirected to said third network connected component while en route to said first network connected component.

9. The method of Claim 1 wherein said request is redirected using Internet domain name service (DNS) based redirection techniques.

10. The method of Claim 1 wherein said content or request is redirected using a web cache communication protocol (WCCP) routing mechanism.

11. The method of Claim 1 wherein said server receives said request routed by said data relaying component, and supplies routing configuration instructions to said data relaying component to create or destroy a rule to route selected streams to a media service.

12. A computer useable medium having computer useable code embodied therein causing a computer to perform operations comprising:

receiving a request for content from a first network connected component;

determining a type of media service needed for at least a portion of said content to fulfill said request;

configuring a data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content to receive said type of media service performed by said third network connected component.

13. The medium of Claim 12 wherein said step of receiving said request for content is performed by a network connected server.

14. The medium of Claim 12 wherein said request is for streaming media content.

15. The medium of Claim 12 wherein said first network connected component is a client device.

16. The medium of Claim 12 wherein said second network connected component is a content server.

17. The medium of Claim 12 wherein said third network connected component is a media service component that receives said content, performs a media service and transmits the content to a client device.

18. The medium of Claim 12 wherein said configuring is performed by a RTSP server.

19. The medium of Claim 12 wherein said content is redirected to said third network connected component while en route to said first network connected component.

20. The medium of Claim 12 wherein said request is redirected using DNS based redirection techniques.

21. The medium of Claim 12 wherein said request or content is redirected using a WCCP routing mechanism.

22. The medium of Claim 12 wherein said server receives said request routed by said data relaying component, and supplies routing configuration instructions to said data relaying component to create or destroy a rule to route selected streams to a media service.

23. A server comprising:

a memory for storing a request for content from a first network connected component; and

a processor coupled to said memory for determining a type of service needed for at least a portion of said content to fulfill said request and configuring a network data relaying component to forward said at least a portion of said content from a second network connected component to a third network connected component, said portion of said content ~~is~~ to receive said type of media service performed by said third network connected component.

24. The server of Claim 23 wherein said step of receiving said request for content is performed by a network connected server.

25. The server of Claim 23 wherein said request is for streaming media content.

26. The server of Claim 23 wherein said first network connected component is a client device.

27. The server of Claim 23 wherein said second network connected component is a content server.

28. The server of Claim 23 wherein said third network connected component is a media service.

29. The server of Claim 23 wherein said configuring is performed by a RTSP server.

30. The server of Claim 23 wherein said content is redirected from said first network connected component to said third network connected component.

31. The server of Claim 23 wherein said request is redirected using DNS based redirection techniques.

32. The server of Claim 23 wherein said content or request is redirected using a WCCP routing mechanism.

33. The server of Claim 23 wherein said server receives said request routed by said data relaying component, and supplies routing configuration instructions to said data relaying component to create or destroy a rule to route selected streams to a media service.

IX. Evidence Appendix

No evidence is herein appended.

X. Related Proceedings Appendix

No related proceedings.